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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/376,381	08/18/1999	KHAI HEE KWAN		6446

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EXAMINER

CHARLES, DEBRA F

ART UNIT	PAPER NUMBER
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3628

DATE MAILED: 11/10/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/376,381

Applicant(s)

KHAI HEE KWAN

Examiner

Debra F. Charles

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 September 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 29-46 and 48-57 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 33-37, 39-46 and 48 is/are allowed.
- 6) ☒ Claim(s) 29-32, 38 and 49-57 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No: _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

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DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 29 September 2003 has been entered.

Response to Amendment

2. Claims 29-46 and 48-54 are amended. Claims 55-57 have been added. Claims 1-28 and 47 have been canceled.

Claim Rejections - 35 USC § 103

3. Claims 29, 30, 31, 32, 38, 49, 50, 51, 52, 53 and 55 are rejected under 35

U.S.C. 103(a) as being unpatentable over Hunt et al.(U.S. PAT. 5724524A), Chou et al.

(U.S. PAT. 6035289A) and Tozzoli et al.(U.S. PAT. 6151588A).

Re claims 29, 32, 38, 49, 52, 55: Hunt et al. disclose an interactive electronic cargo option exchange for cargo service providers to manage cargo freight fees between registered users and cargo service providers-by electronically determining the price for cargo option(Abstract, i.e. contract price, contract is a derivative composed of varying parameters) and for existing cargo option to be sold, bought and settled comprising(Abstract, Fig. 3-6B):

a central controller including a CPU, database and a memory operatively connected to said CPU(Abstract, Fig. 1, 2, col. 4, lines 40-55, col. 3, lines 5-15,col. 5, lines 40-55, i.e. memory is already included in the PC pictured in fig. 2);

at least one service provider's cargo system including a CPU and a memory operatively connected to said CPU, said cargo system adapted for communicating with said central controller over a network(Abstract, Fig. 1, 2, col. 4, lines 4-15 and lines 40-55, col. 5, lines 40-55, i.e. memory is already included in the PC pictured in fig. 2);

said memory in said cargo system containing a program means for calculating, selecting, and responding adapted to be executed by said cargo system's CPU(Abstract, col. 5, line 55-col. 6, line 40, i.e. memory is already included in the PC pictured in fig. 2, and computer program is clearly performing the query activity, col. 8, lines 5-col. 12, line 30);

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a plurality of terminal devices, adapted for communicating with said central controller(fig.1);

said central controller having searching means to search by means to match and rank existing cargo options set by user, means to display with a graphic user interface and means to receive a user request input via said terminal an offer for sale or buy cargo option, and means to receive cargo system request which are posted for a predetermined period accessible online to other users, in exchange(Abstract, Fig. 1,3-6B,col. 5, line 10-col. 12, line 30, i.e. query function is a searching means).

Hunt et al. disclose(s) the claimed invention except for transmitting to said central controller user cargo shipping information comprising: remaining payment, destination of cargo, arrival date of cargo, flexibility of arrival date, type of cargo, departure date, departure location and route criteria over a network; wherein said cargo system calculating means uses at least, remaining payment, time period to provide service, current cargo service cost for a selected route to determine the base price, calculating standard deviation of cargo service price; wherein said cargo system selecting means uses at least, destination of cargo, arrival date of cargo, flexibility of arrival date, type of cargo, departure date, departure location, weather conditions, loading capacity, demand for this type of cargo space, timing issues, cargo price and route criteria to determine availability of service; if service is available said cargo system responding means to provide cargo pricing information to central controller; said memory in said central controller containing a program to calculate cargo option price, adapted to be executed by said CPU in response to cargo pricing information from cargo system; wherein said central controller receives said user shipping information criteria from said terminal and query at least one service provider's cargo system over a network. However, in Fig. 1, col. 3, lines 15-40, col. 5, line 50-col. 6, line 45, col. 7, line 25-30, col. 11, line 15-45 thereof, Chou et al. disclose(s) establishing the contract price based on various parameters and a plurality of shippers and carriers using an electronic network clearinghouse(type of central controller). It would be obvious to one of ordinary skill in the art to modify the invention of Hunt et al. based on the teachings of Chou et al. The motivation to combine these references is Hunt et al. describes the converting of the bid into a priced contract derivative while Chou et al. details the method used by the computer to arrive at the price based on multiple different parameters. It would be obvious to combine these two references and get the applicant's invention because one deals with the pricing calculations and the other deals with the contract as a derivative reflecting the pricing calculations.

Hunt et al. disclose(s) the claimed invention except for the contents of the database comprising users account information, including past transaction records of any sale and purchase of cargo option cargo prices, user personal details including banking accounts, transaction amounts, type of cargo, transporter, departure destination, arrival destination, said accounts are protected by passwords and login sequence. However, in Abstract, Fig. 1, 3C,4, col. 5,line 50-col. 6, line 25, col. 9, line 30-55 thereof, Tozzoli et al. disclose(s) bank account information and data for funds transfer

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along with password protection. It would be obvious to one of ordinary skill in the art to modify the invention of Hunt et al. based on the teachings of Tozzoli et al. The motivation to combine these references is Hunt et al. describes the database connected to a controller, but Tozzoli et al. describes the bank and payment details that are part of the user's account profile.

Re claims 30 and 31: Hunt et al. disclose(s) the claimed invention except for wherein said program in said central controller's memory means to receive a user request input via said terminal device to perform payment transaction through nominated bank account to sell or buy the posted cargo options on behalf of said user. And to settle user's cargo option contract and further means to perform a payment transaction through a nominated bank account to pay cargo service provider the remaining final payment to secure the underlying contracted cargo services and further means to update both registered user's and service provider's accounts in the database. However, in Abstract, Fig. 1, 3C, 4, col. 5, line 50-col. 6, line 25, col. 9, line 30-55 thereof, Tozzoli et al. disclose(s) bank account information and data for funds transfer along with password protection. The motivation to combine these references is Hunt et al. describes the database connected to a controller, but Tozzoli et al. describes the bank and payment details that are part of the user's account profile.

Re claims 50 and 53: Hunt et al. disclose(s) the claimed invention except for the step of using said cargo option to settle remaining, payment to secure the freight cargo service with the particular cargo service provider. However, in Abstract, Fig. 1, 3C, 4, col. 5, line 5-col. 6, line 25, col. 9, line 30-55 thereof, Tozzoli et al. disclose(s) bank account information and data for funds transfer along with password protection, and settling the trade after all conditions have been met and generating a payment guarantee used to confirm the trade conditions. The motivation to combine these references is Hunt et al. describes the database connected to a controller, but Tozzoli et al. describes the bank and payment details that are part of the user's account profile, and funder guaranteeing payment for transactions processed by the trade system between approved buyer and seller, and certain penalties for nonpayment.

Re claim 51: Hunt et al. disclose(s) the claimed invention except for said step of providing shipping information comprising destination of cargo, arrival date of cargo, departure date, departure location, flexibility of arrival date, type of cargo, remaining payment and route criteria ranges over the network via a terminal device. However, in Fig. 1, col. 3, lines 15-40, col. 5, line 50-col. 10, line 45, col. 7, line 25-30, col. 11, line 15-45, thereof, Chou et al. disclose(s) establishing the contract price based on various parameters and a plurality of shippers and carriers using an electronic network clearinghouse(type of central controller) and providing shipping information that is used to match buyer with seller. It would be obvious to one of ordinary skill in the art to modify the invention of Hunt et al. based on the teachings of Chou et al. The motivation to combine these references is Hunt et al. describes the converting of the bid into a priced contract derivative while Chou et al. details the method used by the computer to arrive at the price based on multiple different parameters including shipping information. It would

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be obvious to combine these two references and get the applicant's invention because one deals with the pricing calculations and the other deals with the contract as a derivative reflecting the pricing calculations.

4. Claim 54 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hunt et al.

Re claim 54: Hunt et al. disclose a network system for selling an existing cargo option between one user to another user over a network(Abstract, Fig. 1, 2, col. 4, lines 5-15), comprising:

a central controller adapted to implement the steps of(Abstract, Fig. 1, 2, col. 4, lines 40-55, col. 3, lines 5-15, col. 5, lines 40-55, i.e. memory is already included in the PC pictured in fig. 2):

having a seller list existing cargo option in database for sale(col. 3, line 5-60, col. 5, lines 45-60, col. 6, lines 10-25, col. 8, lines 5-15);

having a buyer select the cargo option and confirm selection(col. 8, lines 25-30);

notifying the cargo system of the cargo service provider of the selected cargo option(Fig. 1, col. 11, lines 55-65);

upon confirmation, performing payment transaction to credit the payment to the seller of the said cargo option and debit the account of the buyer(col. 12, lines 1-36);

updating the database for seller, buyer and service provider's accounts to reflect the change in ownership and contractual rights and updating the database(col. 12, lines 30-36).

Hunt et al. does not explicitly disclose transaction details accessible by all users online. However, Hunt et al. does disclose updating databases throughout the patent and that users can view entries made to the system in col. 5, lines 45-55. Thus, it would have been obvious to one with an ordinary level of skill in the art to make transaction details available to all to get the benefit of a fluid, efficient trading market.

5. Claim 56 and 57 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hunt et al. and Chou et al.

Re claims 56 and 57: Hunt et al. disclose a method for cargo service provider to electronically offer a cargo option(Abstract, i.e. cargo option is a contract and is a derivative composed of varying parameters), the method comprising the steps of:

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querying at least one carrier cargo system based on user's input(Abstract, Fig. 1,3-6B,col. 5, line 10-col. 12, line 30, i.e. query function is a searching means);

if accepted by cargo system response with cargo pricing information(col. 3, lines 55-67);

in response to cargo pricing information, calculating the cargo option price that gives the user the contractual right but not obligation to secure within a future period said period equal or less to the period before the selected departure date, the underlying cargo shipping services for a particular route, for a particular service which satisfied the user's shipping information and the cargo pricing information provided by corresponding cargo system(col. 3, lines 10-20, col. 5, lines 25-45, col. 11, lines 10-col. 12, line 31);

outputting cargo option price to the user and update the database where said priced cargo option is available for predetermined period to other users if not selected by first user(claim 14 esp. items a-c); and

whereby cargo shipping services is by air, rail, sea or space transporters(col. 4, lines 50-67);

And the said system consisting at least one cargo system linked to a network implementing(Abstract, Fig. 1, 2, col. 4, lines 5-15).

Hunt et al. disclose(s) the claimed invention except for said step of providing shipping information comprising destination of cargo, arrival date of cargo, departure date, departure location, flexibility of arrival date, type of cargo, remaining payment and route criteria ranges over the network via a terminal device. However, in Fig. 1, col. 3, lines 15-40, col. 5, line 50-col. 10, line 45, col. 7, line 25-30, col. 11, line 15-45, thereof, Chou et al. disclose(s) establishing the contract price based on various parameters and a plurality of shippers and carriers using an electronic network clearinghouse(type of central controller) and providing shipping information that is used to match buyer with seller. It would be obvious to one of ordinary skill in the art to modify the invention of Hunt et al. based on the teachings of Chou et al. The motivation to combine these references is Hunt et al. describes the converting of the bid into a priced contract derivative while Chou et al. details the method used by the computer to arrive at the price based on multiple different parameters including shipping information. It would be obvious to combine these two references and get the applicant's invention because one deals with the pricing calculations and the other deals with the contract as a derivative reflecting the pricing calculations.

6. As applied to 29, 30, 31, 32, 38, 49, 50,51, 52, 53, 54, 55, 56 and 57:

Nonfunctional descriptive material cannot render nonobvious an invention that would have otherwise been obvious. Cf. In re Gulack, 703 F.2d 1381, 1385, 217 USPQ 401,

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404 (Fed. Cir. 1983) (when descriptive material is not functionally related to the substrate, the descriptive material will not distinguish the invention from the prior art in terms of patentability). Common situations involving nonfunctional descriptive material are:

- a computer-readable storage medium that differs from the prior art solely with respect to nonfunctional descriptive material, such as music or a literary work, encoded on the medium;
- a computer that differs from the prior art solely with respect to nonfunctional descriptive material that cannot alter how the machine functions (i.e., the descriptive material does not reconfigure the computer), or
- a process that differs from the prior art only with respect to nonfunctional descriptive material that cannot alter how the process steps are to be performed to achieve the utility of the invention.

Allowable Subject Matter

7. Claims 33-37, 39-46 and 48 are allowed.
8. The following is an examiner's statement of reasons for allowance:

As per Claims 33 and 39.

The prior art of record, specifically Walker et al. ('127) and Walker et al. ('169) does not disclose or fairly teach calculating the cargo option price wherein said calculating is based at least in part on the formula below:

Cargo Option price = $LC \cdot D \cdot L \cdot C \cdot R \cdot V \cdot W \cdot Q \cdot A \cdot CO$

Where LC is the load capacity time the base price for the option, D is related to a desired number of weeks before departure data, L is concerning the cargo space demand on the requested route, C is concerning loyalty, R is concerning flexibility, V is concerning the standard deviation of the cargo prices, W is concerning the weather on the departure date, Q is for type of cargo including weight and dimensions, A is for type of carrier and CO is for number of competition on the same route as claimed.

The claims which depend from the above allowed claims are allowed for the same reasons.

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Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Debra F. Charles whose telephone number is (703) 305-4718. The examiner can normally be reached on 9-5 Monday thru Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hyung Sough can be reached on (703) 308-0505. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 306-5771.

Debra F. Charles

Examiner:

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dfc


HYUNG SOUGH
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600